Supreme Court, U. S.
FILED
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MICHAEL RODAK, JR., CLERK

79-1492

IN THE

UNITED STATES SUPREME COURT

RONALD R. MOORE,

Plaintiff,

vs.

STATE OF MINNESOTA, CITY OF ST. PAUL, LEGAL ASSISTANCE OF RAMSEY COUNTY, ST. PAUL TENANTS UNION,

Defendants.

APPENDIX TO

PETITION FOR A WRIT OF CERTIORARI

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TABLE OF CONTENTS

	Page
Admissions by the City of St. Paul.....	1
Admissions by the St. Paul Tenants Union.....	10
Admissions by Legal Assistance of Ramsey County.....	11
Minn. Stat. 504.18.....	19
Findings and Opinion of the District Court.....	21
Rehearing Denied, District Court.....	27
Findings and Opinion of the Appellate Court.....	28
Rehearing Denied, Appellate Court.....	30

ADMISSIONS BY THE CITY OF ST. PAUL

1. That Alice Bijani is an employee of the City of St. Paul in the Department of Code Enforcement.

2. That St. Paul inspects property and makes deficiency lists as result of tenants complaints.

3. That they are aware that the Tenants Union solicits complaints from tenants even when not approached initially by the tenant.

4. St. Paul received a complaint about the use of 260 Maiden Lane.

5. City inspector came to 260 Maiden Lane as a response to the complaint.

6. City inspectors found the building at 260 Maiden Lane being used as a warehouse by a company doing business under the name of Albion Transfer.

7. Said company of item 6 was using 260 Maiden Lane as a warehouse.

8. City attempted to prohibit the use of 260 Maiden Lane as a warehouse by
(i) Stating objections to such use as a zoning code violation.
(ii) Posting a Dangerous Building--Entry Prohibited notice at the entrance of 260 Maiden Lane.

9. The code violation for the basis of the danger sign was that interior chambers had lateral supports in their ceilings whose span exceeded present requirements for the space between vertical supports.

10. That at the time of the danger posting 260 Maiden Lane was approximately 100 years old and still straight.

11. That Ronald R. Moore sold 260 Maiden Lane to the governmental entity called Housing Redevelopment Authority.

12. That the purchaser, H.R.A., did remove electrical service from 260 Maiden Lane even though Albion Transfer was still occupying the building subject to a written lease with the former owner Ronald R. Moore.

13. That 260 Maiden Lane still stood on the date of 27 April 79 and no repairs to the building have been performed by H.R.A. since they purchased the building from Ronald R. Moore.

14. That H.R.A. encouraged the use of 260 Maiden Lane as a warehouse since they bought this property from Ronald R. Moore.

15. That at the time of city's inspection Ronald R. Moore also owned 255 Summit Ave. which was contigent property.

16. That 255 Summit Ave. was zoned for a 13 unit residential building because it was grandfathered out of other zoning restrictions.

17. That an entire certificate of occupancy inspection on the apartment building at 702 Holly, St. Paul, MN, was conducted as a result of one tenant at 702 Holly complaining about a malfunctioning oven in her kitchen stove.

18. That the oven, which was the subject of the tenant complaint of item 1, was not even inspected during the certificate of occupancy inspection.

19. That at the time of the certificate of occupancy inspection 702 Holly was owned by Ronald R. Moore.

20. That the City of St. Paul by letter dated, 10 Sept. 75, served on Ronald R. Moore a four (4) page list of deficiencies stating that said deficiencies must be corrected by a time certain.

21. That the City of St. Paul stated in this deficiency letter that an existing electrical system and an existing plumbing system may have to be updated to meet the present building codes.

22. That the letter told Ronald R. Moore that a permit is required for all electrical and plumbing repairs, knowing in fact that this statement was false at the time it was made.

23. That the letter told Ronald R. Moore he could obtain the required permits at Room 445 City Hall, knowing in fact that this statement was false at the time it was made.

24. That Item No. 1 of the deficiency list called for the installation of 3/4" sheetrock on the boiler room ceiling within 3 months.

25. That installation of the sheetrock, as described in item 8 of this request for admissions, is a difficult and expensive undertaking, involving taping of the sheetrock as well as its attachment to the ceiling.

26. That the boiler-room in which this installation of sheetrock was required had been in operation without said installation in excess of 30 years.

27. That the installation of said sheetrock was not, in fact, a requirement but that an acceptable safety improvement was attainable by a simple plumbing task of

installing sprinklers above the furnace.

28. The installation of sprinklers as in item 11 was in common practice in the City of St. Paul and the City of St. Paul knew it at the time they required of Ronald R. Moore the installation of sheetrock.

29. The deficiency list of 10 Sept 75 required the installation of 28 gauge, or heavier, sheetmetal on the inside of all boiler room doors.

30. In fact the rest of the boiler room walls were open studing on the boiler room side without even lathe and plaster covering and the lathes of the walls supporting the plaster outside the boiler room were exposed in the boiler room.

31. There were wooden storage closets in the boiler room which required no steel sheeting.

32. That items 4, 17, 19, & 20 of the 10 Sept 75 deficiency list include a venting requirement that may have involved a major design change in a plumbing system that had been in use for several years.

33. That items 9, 10, & 12 of the 10 Sept 75 deficiency list do not pertain to health or safety.

34. That item 14 of the 10 Sept 75 deficiency list is vague.

35. That item 14 of the 10 Sept 75 deficiency list involves extensive amounts of work and possibly great expense.

36. The electrical service which was the subject of the 10 Sept 75 deficiency list was modern, (within 5 years old,) and had been subjected to an inspection by the

City of St. Paul at the conclusion of its installation.

37. All requirements of the 10 Sept 75 deficiency list in items 21, 22, 24, 25, 27, 28, 36, 37, 38, 39, 40, 42, & 47 were in fact requirements at the time the electrical service was approved by the City of St. Paul.

38. That item 27 of the deficiency list was not in fact a deficiency.

39. The installation of ground fault interruptors was required in some apartments and not in others.

40. The installation of ground fault interruptors is a more expensive electrical modification than just grounding the fixture.

41. That the plaintiff, Ronald R. Moore, was not the owner of 702 Holly at the time the electrical service was approved by the City of St. Paul.

42. The City of St. Paul was told in City of St. Paul v. Dalsin, 71 N.W. 2d 855 (1958), their licensing requirements were unconstitutional.

43. The City of St. Paul was told in State of Minnesota v. Ronald Moore, County Municipal Court-St. Paul, Complaint No. BO 6614, that their permit requirements were unconstitutional.

44. That the St. Paul Legislative Code 25.07(d), states "every building heretofore erected...found to conform to the building code at the time of construction ....

45. The City of St. Paul did not appeal the loss by the City of the case of State

of Minnesota v. Ronald R. Moore, because they had lost the appeal of City of St. Paul v. Dalsin.

46. Ronald R. Moore made objections to the 10 Sept 75 deficiency list on 702 Holly, and that the list was not modified.

47. Ronald R. Moore appeared before the board of appeals for the purpose of overruling the denial of permits and said appeal was not successful.

48. Items on the deficiency list of 10 Sept 75 needed before a certificate of occupancy would be issued, were in fact, completed and a certificate of occupancy for 702 Holly was sent to Ronald R. Moore.

49. Ronald R. Moore was cited for performing work required by the deficiency list on 702 Holly because he did not receive a permit when he had attempted to get said permits.

50. Ronald R. Moore was, at some time between 10 Sept 75 and October 78, the owner of 683 Hague, 704 Hague, 708 Hague, 701 Hague, 725 Hague, and 77 N. Milton, all situated in the City of St. Paul, County of Ramsey State of Minnesota.

51. The buildings listed in this request, item 34, that are required to have a certificate of occupancy by the City of St. Paul have been, or are now under a demand for such a certification.

52. 725 Hague is a single family dwelling for which, Ronald R. Moore applied for a certificate of compliance to acquire V.A. financing, implying said residence was to be used as Ronald R. Moore's dwelling place.

53. By the City of St. Paul's very own regulations, an owner-occupant of a single family dwelling is permitted to perform electrical and plumbing improvements on the dwelling himself.

54. In the deficiency list of 7 Nov 77, the City of St. Paul, as a prerequisite in its certificate of compliance inspection, wrote, "Note: all work is to be done under permit by a licensed electrical contractor."

55. Plumbing and electrical tasks are permitted, by the City of St. Paul, to be done by an occupant-owner of a single family dwelling or a owner-occupant of a duplex while these tasks under like circumstances, are forbidden elsewhere.

56. The deficiency list compliled by the City of St. Paul on 704 Hague, dated 12 Aug 77, was a result of a tenant complaint.

57. The deficiency list on 704 Hague, dated 12 Aug 77, required the replacement of missing panes of glass in a French door and that said replacement is not a matter of safety or health, but is solely a matter of cosmetics.

58. The deficiency list on 704 Hague, dated 12 Aug 77, makes several references to plastic supply lines, calling for the removal of all such lines, requiring compliance with the plumbing code.

59. The City inspector who compiled the list on 704 Hague, dated 12 Aug 77, testified in Moore v. Chapman, Municipal Court, St. Paul, File No. 234339, that the code enforcement personnel had discussed the use of plastic supply lines

and were afraid court action would result in their acceptance.

60. The building code of St. Paul allows for the use of specific materials or any materials equivalent to or superior to those specified.

61. The city inspector who conducted the inspection of 704 Hague on 11 Aug 77 was a social acquaintance of the dissident tenants of the building.

62. Denial of a permit means a job won't be inspected and not that it won't be performed.

63. Denial of a permit to perform work which it is imperative to the landlord to have accomplished means a job won't be inspected and it will be done.

64. Denial of permits, as in item 47 above, diminishes the public safety and health.

65. That the City of St. Paul includes in its deficiency lists matters not related to health or safety.

66. That the City of St. Paul denied permits to Ronald R. Moore to perform work on his property.

67. That the City of St. Paul declared they required Ronald R. Moore to have work performed on his property.

68. That the City of St. Paul does not have a plan designed by a statistician which insures an impartial comprehensive distribution of initiation of code inspections.

69. That less than 50% of the buildings which the City of St. Paul requires to have a certificate of occupancy do in fact

have a certificate of occupancy.

70. That permits are given for some building improvements, viz. duplexes occupied by the owner, and are denied for some building improvements when in actuality the same task would be performed.

Example: Assume a segment of a sewer drain needs replacement.
(i) A permit can be issued to the owner without his being a master plumber if it is a duplex in which he lives.
(ii) A permit will be denied to the owner if he does not live in the building.

71. That deficiencies are listed during inspections in response to tenant complaints and the landlord is ordered to correct them when the deficiency has not actually been observed by the inspector.

72. That the City of St. Paul uses the power to license as the power to prohibit even in the pursuit of constructive labor.

73. That if a resistor to a deficiency list refuses to comply he may be subject to prosecution in a court of law.

74. That if a resistor as described in item 43 prevails in such a prosecution the City of St. Paul ignores the decision and procedes as formerly even when dealing with the identical resistor.

75. That the City of St. Paul conducts itself consistent with a policy of hoping a landlord is bound by a decision of the inferior courts in which citizens of St. Paul are required to appear on the initiation of the City of St. Paul, but that the City will not be bound by such a decision.

76. That no building of a present employee of the code inspection division

has been inspected during the ownership of the employee.

77. That 722 Grand Avenue, St. Paul, MN 55105, is owned by an employee of the code enforcement division of the City of St. Paul.

78. That the electrical system and heating plant of 722 grand avenue is not superior to those aspects of 702 Holly Avenue in the City of St. Paul.

ADMISSIONS BY THE ST. PAUL TENANTS UNION

1. Personnel records of landlords or records identified by a subject persons name, are being accumulated by the St. Paul Tenants Union.

2. Said records are kept on a continuing basis recording complaints the St. Paul Tenants Union receive regarding a landlord.

3. Some of said entries have been made solely on the basis of a telephone conversation.

4. The St. Paul Tenants Union has advised tenants who filed a complaint in relation to property owned by Ronald R. Moore that they could legally withhold rent and they may be represented in court, in the event such an appearance was required, by Ramsey County Legal Aid.

5. Agents of the St. Paul Tenants Union have appeared as witness in behalf of the tenants in landlord-tenant disputes involving Ronald R. Moore as a party.

6. St. Paul Tenants Union agents have entered premises occupied by tenants related contractically with Ronald R. Moore when said visits were not initiated by invitation of the tenant visited.

7. No prior arrangements or agreements were acquieced to by Ronald R. Moore with respect to the St. Paul Tenants Union inspecting property owned by Ronald R. Moore.

8. The St. Paul Tenants Union acknowledges that complaints have been forwarded, requests made for inspection, or other action has been directed to the City of St. Paul for the purpose of influencing the code enforcement division of the City of St. Paul to construct a deficiency list with property of Ronald R. Moore as the subject of said list.

9. That Hardy Wright is a member of the board of the St. Paul Tenants Union.

10. That Hardy Wright is the treasurer of the Summit-University Free Press.

11. That the St. Paul Tenants Union issued a press release in which Ronald R. Moore was referred to as a "slumlord".

12. That Nan Swift is an agent of the St. Paul Tenants Union.

13. That Jack Nelson, a reporter for the Summit-University Free Press, submitted an article in said Press referring to Ronald R. Moore as a slumlord and that Jack Nelson has participated actively with the St. Paul Tenants Union in attempting to conduct meetings at 77 North Milton, St. Paul, MN, for the purpose of collecting tenants complaints.

ADMISSIONS BY LEGAL ASSISTANCE OF RAMSEY COUNTY

1. Daniel and Louyanne Chapman resided at 704 Hague Ave., St. Paul, MN on 1 Oct 77.

2. Daniel and Louyanne Chapman were on 1 Oct 77 tenants of Ronald R. Moore.

3. Daniel and Louyanne Chapman were renting an apartment from Ronald R. Moore at 704 Hague, and said rental was on a month to month oral lease under the laws of the State of Minnesota.

4. Daniel and Louyanne Chapman were tenants of Ronald R. Moore at 683 Hague prior to their residence at 704 Hague.

5. Computation of all the time Daniel and Louyanne Chapman were tenants of Ronald R. Moore results in a time interval in excess of one year.

6. Daniel and Louyanne Chapman were contacted by St. Paul Tenants Union agent Nan Swift and after conference with her they gave a 30 day notice to quit the tenancy and refused to pay rent for the last month.

7. Daniel and Louyanne Chapman did in fact maintain their residence at 704 Hague Ave. and were refusing to pay rent at the advice of Non Swift an employee of the St. Paul Tenants Union.

8. As a result of their refusal to pay rent, Ronald R. Moore filed an unlawful detainer action, in Ramsey County Municipal Court File No. 234339 and in Ramsey County Conciliation Court for rent due.

9. Daniel and Louyanne Chapman in the actions described in item 8 were represented by an attorney acting voluntarily for Ramsey County Legal Aid.

10. That said litigation resulted in a judgment in favor of the plaintiff, Ronald R. Moore, for his entire demand and cost.

11. Daniel and Louyanne refused entry to their apartment, during the time of above litigation, to personal working in Ronald R. Moore's business, when the purpose of the entry was to show the apartment to a prospective tenant.

12. Nan Swift, under authorization of the St. Paul Tenants Union did seek out and confer with other tenants of Ronald R. Moore besides Daniel and Louyanne Chapman.

13. Nan Swift, under authorization of the St. Paul Tenants Union did, on the occasion she was counseling Daniel and Louyanne Chapman, enter residential buildings owned by Ronald R. Moore, for the purpose of conferring with tenants of Ronald R. Moore other than Daniel and Louyanne Chapman.

14. That Viola Clancy was a resident of 683 Hague, St. Paul, Minnesota, on 1 Nov 75.

15. That Ronald R. Moore was the owner of 683 Hague on 1 Nov 75.

16. That all residents of 683 Hague, including Viola Clancy, received notice of termination of rental effective at the end of Nov 75.

17. That one James Simon and one William Timmons were tenants of 683 Hague on 1 Nov 75.

18. That none of the tenants listed in items 14 and 17 had paid the agreed to rent nor made arrangements to do so by 5 Nov 75.

19. That all the above named tenants were served unlawful detainer complaints alleging non-payment of rent for the month of Nov 75.

20. That the St. Paul Tenants Union was contacted in reference to the tenancy modifications initiated by Ronald R. Moore at 683 Hague during Nov 75.

21. That Viola Clancy was not one of the tenants who sought out aid from the St. Paul Tenants Union.

22. That the St. Paul Tenants Union referred the complaintants to Ramsey County Legal Aid.

23. That one Joel Fisher, employee of Ramsey County Legal Aid, did agree to represent some tenant of 683 Hague in one of the unlawful detainer actions filed in Nov 75 with Ronald R. Moore as a plaintiff.

24. That Viola Clancy did not approach Ramsey County Legal Aid for assistance.

25. That Ramsey County Legal Aid sought out and recruited Viola Clancy to resist the unlawful detainer action. in Ramsey County Municipal Court, File No. 222257.

26. Acting as attorney for Viola Clancy, one Joel Fisher, an employee of Ramsey County Legal Aid, filed charges naming Ronald R. Moore as defendant in case files numbered A-999, A-1000, and A-1001 with the City of St. Paul Department of Human Rights.

27. An investigation was conducted by the St. Paul Department of Human Rights and resulted in the finding, "no reasonable grounds exist to establish that a violation of the ordinance has occurred."

28. Joel Fisher contacted Ronald R. Moore by phone after 1 Dec 76 to discuss the case of Moore v. Clancy, File No. 222255 to be tried 6 Jan 76 in which he represented Clancy, and was then informed there was no longer a subject for trial because

Viola Clancy had moved from 683 Hague.

29. Viola Clancy moved on 1 Dec 76 to 204 N. Western, St. Paul, Minnesota, 55102, where she paid a rental rate of $115.00/mo. and made a $50.00 deposit.

30. Viola Clancy had made arrangements to move early in the month of Nov 75 to 944 Ashland, St. Paul, Minnesota and had made a $50.00 deposit on an apartment there but was persuaded by the St. Paul Tenants Union and Ramsey County Legal Aid to stay at 683 Hague.

31. St. Paul Tenants Union or Ramsey County Legal Aid influenced Viola Clancy to stay at 683 Hague because only she had the escrow money needed by a tenant to successfully resist an unlawful detainer complaint until it came to trial.

32. One Sgt. Sassor of the Ramsey County sheriff's department appeared between 5:00 and 5:30 p.m. on 5 Jan 76, a Friday, to execute a writ of possession reinstating possession of an apartment at 683 Hague to Viola Clancy.

33. The unlawful detainer action contesting possession of the apartment mentioned in the writ of possession above was scheduled for trial on 8 Jan Jan 76, a Monday.

34. No attempt was made to notify Ronald R. Moore of the hearing which resulted in the writ of possession.

35. The hearing resulting in the writ of possession was not held before the same judge that all of the other transactions Re: Moore v. Clancy had been heard.

36. Joel Fisher was made aware on 3 Jan 76, a Wednesday, that Viola Clancy had vacated 683 Hague.

Viola Clancy had vacated 683 Hague voluntarily without even the knowledge or expectation of her departure by Ronald R. Moore.

38. Ronald R. Moore received no rent on 683 Hague during the month of Nov 75, even though at least seven of the units were accupied during that month.

39. There were widespread signs of window glass and window screen damage at 683 Hague when Ronald R. Moore took possession on 31 Oct 75.

40. The damage referred to in item 39 above was intensified in apartment 204, 683 Hague, where all remaining windows were broken and the toilet burst after Ronald R. Moore took possession on 31 Oct 75.

41. Ronald R. Moore represented he could not activate security locks on the entrances at 683 Hague while Viola Clancy retained possession of an apartment there.

42. That Susan McConner and Debra Davenport on 1 Aug 76 resided at 683 Hague Ave. St. Paul, MN.

43. They were students at MacAlister College who lived off compus for the summer of '76.

44. They intended to return to college dormitory residence when the dormitories opened in the fall of '76.

45. On 1 Aug 76 they were tenants of Ronald R. Moore.

46. As of 15 Aug 76 they had not paid the Aug 76 rent and had made no attempt to make arrangements to pay said rent.

47. Both Susan McConner and Debra Davenport were unmarried and were employed on 1 Aug 76.

48. Ronald R. Moore instituted an unlawful detainer action file No. 227466 in Ramsey County Municipal Court naming Susan McConner and Debra Davenport as defendants.

49. The litigation was terminated by stipulation providing Ronald R. Moore with their security deposit which was one-half of a month's rent and immediate possession of the apartment.

50. That no thirty day notice of termination of the month to month oral lease, which was the rental agreement, was tendered by Susan McConner or Debra Davenport.

51. After the stipulation terminating the litigation in which Ronald R. Moore was a plaintiff and Susan McConner and Debra Davenport were defendants was signed by Ronald R. Moore, Susan McConner and Debra Davenport with the knowledge of their attorney one Mary Ann Barrows, an attorney with the firm Oppenheimer, Wolff, Foster, Shepard, and Donnelly, working as a voluntary attorney for Legal Aid, Ramsey County, did file a claim in Ramsey County Conciliation Court naming Ronald R. Moore as a defendant, and that said claim was properly a counterclaim in the action terminated previously by stipulation.

52. Susan McConner and Debra Davenport were referred to Ramsey County Legal Aid by the St. Paul Tenants Union.

53. Ramsey County Legal Aid depended on Mn. Stat. 504.18 to resist Ronald R. Moore's demand that Susan McConner and Debra Davenport relinquish possession of their apartment as a result of nonpayment

of rent.

54. Mary Ann Barrows, an attorney with the firm of Oppenheimer, Wolff, Foster, Shepard, and Donnelly, working as a voluntary attorney for Legal Aid, Ramsey County, who represented Susan McConner and Debra Davenport in the action described above, in item 48, is the very same person as Mary Ann Barrows Mark, an Attorney or record for the defendants in this litigation of Moore v. the State of Minnesota et al.

Minnesota Statutes Annotated, p. 52-53
Minn. Stat. 504.18

Subdivision 1. In every lease or license of residential premises, whether in writing or parol, the lessor or licensor covenants:

(a) That the premises and all common areas are fit for the use intended by the parties.

(b) To keep the premises in reasonable repair during the term of the lease or license, except when the disrepair has been caused by the willful, malicious, or irresponsible conduct of the lessee or licensee or a person under his direction or control.

(c) To maintain the premises in compliance with the applicable health and safety laws of the state and of the local units of government where the premises are located during the term of the lease or license, excpet when violation of the health and safety laws has been caused by the willful, malicious, or irresponsible conduct of the lessee or licensee or a person under his direction or control.

(d) a lease or license of residential premises may not waive or modify the covenants imposed by this section.

Subd. 2. The lessor or licensor may agree with the lessee or licensee that the lessee or licensee is to perform specified repairs or maintenance, but only if the agreement is supported by adequate consideration and set forth in a conspicuous writing. No such agreement, however, may waive the provisions of subdivision 1 or relieve the lessor or licensor of the duty to maintain common areas of the premises.

Subd. 3. This section shall be liberally construed, and the opportunity to inspect the premises before concluding a lease or license shall not defeat the covenants established herein.

Subd. 4. The covenants contained herein shall be in addition to any covenants or conditions imposed by law or ordinance or by the terms of the lease or license.

Subd. 5. Nothing contained herein shall be construed to alter the liability of the lessor or licensor of residential premises for injury to third parties.

Subd. 6. The provisions of this section apply only to leases or licenses of residential premises concluded or renewed on or after June 15, 1971. For the purposes of this section estates at will shall be deemed to be renewed at the commencement of each rental period.

Added by Laws 1971, c. 219, sec. 1.

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
THIRD DIVISION

Ronald R. Moore, Plaintiff,	)	
vs.	)	Civil 3-78-405
State of Minnesota, City of St. Paul, Legal Assistance of Ramsey County, and St. Paul Tenants Union, Defendants.	)	MEMORANDUM AND ORDER

On January 24, 1979, Chief Judge Devitt granted defendants' motions to dismiss plaintiff's complaint under Fed. R. Civ. P. 12(b) (1) and 12(b) (6). Plaintiff then filed a motion for leave to amend his complaint, and on February 27, 1979, he formally requested assignment of the case to another judge. Judge Devitt treated plaintiff's motion to amend as a motion to reconsider his order of dismissal, but on April 3, 1979, he recused himself. The case was reassigned to the undersigned, and defendants renew their motions to dismiss plaintiff's claims.

Plaintiff's nebulous albeit colorful amended complaint is entitled: "Malicious use and malicious abuse of legal process. Discriminatory and negligent use of legal process." Plaintiff is now a resident of Arkansas, but from 1969 until 1977 he was a landlord in St. Paul. In essence, plaintiff charges defendants with resorting either singly or in concert to legal process in an effort to "neutralize (his) success." (Amended Complaint, ¶V). The apparent sources of plaintiff's distress are Minnesota's statutory covenant of

habitability, Minn. St. §504.18, and St. Paul's building code.

Plaintiff's original complaint failed to allege a jurisdictional basis. In his amended complaint, plaintiff has attempted to correct this and other deficiencies. In the interest of justice, since plaintiff is prosecuting this action pro se, leave should be granted to permit plaintiff to file his amended complaint. Thus, the order of Judge Devitt dismissing this cause will be vacated.

Each of the defendants has renewed its motion to dismiss plaintiff's claims. The amended complaint still suffers from generalization and ambiguity, and plaintiff has asked the Court to consider his requests for admissions as greater specification of his claims. The Court does so in considering each defendant's motion to dismiss.

1. State of Minnesota

Plaintiff's amended complaint fails to specifically charge the State with anything, nor does plaintiff direct any requests for admissions to this defendant. In any event, this Court has no jurisdiction over whatever claims plaintiff wishes to assert against the State. Minnesota is not a citizen for purposes of diversity of citizenship. Savage v. United States, 322 F. Supp. 33, 35 (D. Minn.), aff'd, 450 F. 2d 449 (8th Cir. 1971), cert. denied, 405 U. S. 1043 (1972). Plaintiff attempts to raise a federal question by alleging that the State passed what he considers to be an unconstitutional law, Minn. St. §504.18. (Amended Complaint, ¶VII). As plaintiff is no longer a landlord residing in Minnesota, he has no standing to make this

challenge. His claims against the State must therefore be dismissed without prejudice for want of subject-matter jurisdiction.

2. Legal Assistance of Ramsey County

Plaintiff charges Legal Assistance of Ramsey County with malicious prosecution and abuse of process. Defendant has moved for dismissal under rule 12(b) (1) and 12(b) (6), and for summary judgment. Because diversity of citizenship is present and the requisite amount in controversy exists, the Court denies the motion to dismiss under rule 12(b) (1). The Court, however, grants defendant's motion for summary judgment.

Actions which were brought by the instant plaintiff cannot serve as the basis of an action for malicious prosecution. Nor can Legal Assistance of Ramsey County, not being a party to the actions plaintiff complains of, be liable for malicious prosecution unless acting as an attorney it had knowledge of its client's malicious motives and had no reasonable basis to believe that there was probable cause for the suit. See, Hoppe v. Klapperich, 224 Minn. 224, 28 N.W. 2d 780, 792 (1947). Even when plaintiff's requests for admissions supplement the amended complaint and plaintiff's specific allegations are assumed true, plaintiff has failed to state the elements of an action for malicious prosecution or abuse of process against Legal Assistance of Ramsey County. Judgment must therefore be entered for this defendant.

3. St. Paul Tenants Union

Plaintiff charges the St. Paul Tenants

Union with advising tenants of their rights, referring them to Legal Assistance or the St. Paul Department of Code Enforcement, and appearing as witnesses in litigation. Defendant has moved to dismiss under rule 12(b) (6). By letter the Court gave the parties notice of its intent to transform all such motions into motions for summary judgment and an opportunity to submit additional affidavits or exhibits. Assuming the truth of plaintiff's allegations, the Court grants summary judgment for the St. Paul Tenants Union.

For the reasons advanced above with respect to Legal Assistance of Ramsey County, this defendant cannot be liable for malicious prosecution or abuse of process. Moreover, many of the actions of which plaintiff complains are protected by the First Amendment, see, e.g. Brotherhood of R.R. Trainmen v. Virginia State Bar, 377 U.S. 1, 84 S. Ct. 1113 (1964), and thus cannot be made the basis of civil liability. Judgment consequently will be entered for the St. Paul Tenants Union.

4. City of St. Paul

The City Moves to dismiss on two grounds: want of subject-matter jurisdiction and failure to state a claim. The Court denies the first motion and has converted through notice the second motion into a motion for summary judgment. As illuminated by his requests for admissions, plaintiff alleges that the City arbitrarily compiled deficiency lists of building code violations on his rental properties. Plaintiff lacks standing to press the other issues he raises against

the City. Since he no longer resides in St. Paul, Plaintiff cannot challenge the constitutionality of the building code or licensing requirements of the City or its pattern of enforcement of code violations.

Alleged arbitrary citation of building code violations does not constitute abuse of process or malicious prosecution, since it involves no resort to legal process. The gravamen of plaintiff's amended complaint, if imaginatively viewed, appears to be discriminatory enforcement of the building code by the City in violation of the equal protection guarantee of the Fourteenth Amendment, such as might properly be alleged in an action brought under 42 U.S.C. 1983. But even such liberal construction does not avail plaintiff, for he nowhere alleges that the alleged discrimination was class-based or impinged on a fundamental interest, such as free speech. Compare, e.g., Yick Wo v. Hopkins, 118 U.S. 356, 6 S. Ct. 1064 (1886); Snowden v. Hughes, 321 U.S. 1, 64 S. Ct. 397 (1944); Oyler v. Boles, 368 U.S. 448, 454-56, 82 S. Ct. 501, 505-06 (1962). Summary Judgment must therefore be entered for the City.

Based on the foregoing, IT IS ORDERED:

1. That the order entered in this cause on January 24, 1979, be and hereby is vacated.

2. That plaintiff be and hereby is granted leave to file his amended complaint.

3. That the motion of defendant State of Minnesota to dismiss the amended complaint for want of subject-matter jurisdiction be and hereby is granted.

4. That the motion of defendant Legal Assistance of Ramsey County for summary judgment be and hereby is granted.

5. That summary judgment for the St. Paul Tenants Union be and hereby is granted.

6. That summary judgment for the City of St. Paul be and hereby is granted.

7. That all other motions of the parties not specifically enumerated above be and hereby are denied.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Signed/Judge Harry H. MacLaughlin
United States District Court

Dated: July 9, 1979

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
THIRD DIVISION

Ronald R. Moore,
Plaintiff,

v.

State of Minnesota,
City of St. Paul,
Legal Assistance of
Ramsey County, and
St. Paul Tenants Union,
Defendants.

CIVIL 3-78-405

ORDER

Plaintiff's motions to reconsider and for summary judgment, filed July 20, 1979, are hereby denied.

Signed/Judge Harry H. MacLaughlin
United States District Court

DATED: August 2, 1979

UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT

No. 79-1740

Ronald R. Moore, Appellant,	*	
v.	*	Appeal from the United States District Court for the District of Minnesota
State of Minnesota, City of St. Paul, Legal Assistance of Ramsey County, St. Paul Tenants Union, Appellees.	*	

Submitted: January 11, 1980

Filed: January 16, 1980

Before LAY, Chief Judge, BRIGHT and ROSS, Circuit Judges.

PER CURIAM.

Ronald R. Moore, proceeding pro se, appeals from an order dismissing for lack of subject matter jurisdiction the State of Minnesota and granting the motion for summary judgment filed by the City of St. Paul, Legal Assistance of Ramsey County and St. Paul Tenants Union in an action for alleged malicious prosecution and abuse of process. Jurisdiction in the district court was predicated upon 28 U.S.C. §§ 1331 and 1332.

Upon review of the record and briefs, we affirm the order of dismissal in favor of the City of St. Paul for failure of the plaintiff to allege a substantial

federal question. We also affirm the grant of summary judgment as to each of the other defendants for the reasons set forth in the district court's opinion.

The order of the district court is affirmed.

A true copy.

Attest:

CLERK, U. S. COURT OF APPEALS,
EIGHTH CIRCUIT

(Not to be published.)

UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT

No. 79-1740. September Term, 1979

Ronald R. Moore, Appellant,	)	
vs.	)	Appeal from the United States District Court for the District of Minnesota.
State of Minnesota, et al, Appellees.	)	

Petition of appellant pro se for rehearing filed in this cause having been considered, it is now here ordered by this Court that the same be, and it is hereby, denied.

February 11, 1980